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package or not does not extend the power of the State so that laws passed by its assembly for the punishment of the importer are constitutional.

Intoxicated Person—Purchase from—Conversion.—In *Baird v. Howard*, 36 N. E. 732 (Ohio), it was held that a purchase made when the seller was incompetent to contract by reason of intoxication, which incompetency the purchaser was aware of at the time and was taken advantage of by him, is fraudulent, and that the seller has his election to treat the possession of the purchaser as a conversion and recover its value in an action.

Malicious Prosecution—Advice of Counsel as a Defense.—*Jonasen v. Kennedy*, 58 N. W. Rep. 122 (Neb.). Defendant in error was tried on a charge of theft at the instance of appellant, and being acquitted, brought suit for damages for malicious prosecution and recovered. On appeal, the plaintiff, among other assignments of error, relied on the refusal of the judge to charge the jury that malice was rebutted and the suit for malicious prosecution must fail, if they found that the assistant county attorney who brought the complaint (which was sworn to by appellant upon his advice) was acquainted with the material facts of the case, as a sufficient ground for setting aside the judgment of the lower court. Held, that a full, free and fair communication of the facts of the case must be proved to make the advice of counsel an available defense, and that the instruction was rightly refused.

Mandamus—Governor's Exemption—Executive Powers.—*State ex. rel. Robb v. Stone, Governor*, 25 S. W. Rep. 376 (Mo.). Relator, employed by a previous governor of the State as counsel for the State, under power given by the general assembly, performed his duty to the State as counsel, and, after the determination of the cause in which he was engaged, presented his claim together with his contract, against the State to the governor who refused to order it to be paid. Relator then sought an alternative writ of mandamus directed to the governor, commanding him to order the claim to be paid. The defendant, waiving the issuance of the writ, demurred to the petition on the ground that the facts stated were insufficient. The court, disregarding the demurrer, held that, as the constitution divided the powers of government into the executive, legislative and judicial, and declared that no person or collection of persons charged with the exercise of the powers of one of these departments, shall exercise the powers belonging